

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

(1) ALFRED D. PHELPS, III

Plaintiff,

vs.

**(1) KERR MACHINE CO.,
d/b/a Kerr Pumps and Flow Valve,**

Defendant.

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Case No. 22-cv-66-JFH

NOTICE OF REMOVAL

Defendant Kerr Machine Co., pursuant to 28 U.S.C.A. §§ 1331, 1441 and 1446, hereby removes this action which is now pending as case number CJ-2022-1 in the District Court in and for Murray County, State of Oklahoma (the “action”), to the United States District Court for the Eastern District of Oklahoma. In support Defendant states as follows:

1. Plaintiff Alfred D. Phelps, III, filed this civil action in the District Court of Murray County, State of Oklahoma, on January 18, 2022, against “Kerr Machine Co. d/b/a Kerr Pumps and Flow Valve.”

2. Defendant was served with Petition and Summons in the action on January 28, 2022. Accordingly, this Notice of Removal is timely filed within the thirty days allotted for removal by 28 U.S.C.A. § 1446(b).

3. In his Petition, Plaintiff asserts claims against Defendant for alleged employment discrimination in violation of 42 U.S.C. § 1981, Title VII of the Civil Rights Act of 1964, and Oklahoma’s Anti-Discrimination Act. This entire action is removable under 28 U.S.C.A. § 1441(c)(1).

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C.A. § 1331 because Plaintiff's claims arise under the federal statutes and acts of Congress.

5. This Court has supplemental jurisdiction pursuant to 28 U.S.C.A. § 1367(a) because Plaintiff's state law claim is so related to the federal claims in the action, which are within the Court's original jurisdiction, that it forms part of the same case or controversy under Article III of the United States Constitution. Plaintiff's state and federal claims based on alleged employment discrimination by Defendant arise out of a "common nucleus of operative fact." *See United Mine Workers v. Gibbs*, 383 U.S. 715, 725 (1966). "Judicial economy, convenience and fairness to litigants" would all be served by the Court's exercise of jurisdiction over Plaintiff's state claim. *See id.* at 726.

6. Venue is proper before this Court because the action is currently pending in Murray County, where Defendant is subject to personal jurisdiction, which is in the judicial district of the Eastern District of Oklahoma. 28 U.S.C.A. § 1391.

7. Pursuant to 28 U.S.C.A. § 1446(a) copies of all process, pleadings, and orders served upon the parties in the action at the time of removal are attached hereto as Exhibits 1 through 4. Said documents are as follows: Plaintiff's Petition (Exhibit 1), Entries of Appearances for Plaintiff's counsel (Exhibit 2, collectively), Return of Service (Exhibit 3), and Entry of Appearance for Defendant's counsel (Exhibit 4).

8. Pursuant to Local Civil Rule 81.2 of the United States District Court for the Eastern District of Oklahoma, a copy of the state court docket sheet, as of the date of this filing, is attached hereto as Exhibit 5.

9. A copy of this Notice of Removal will be served on Plaintiff and filed in the District Court of Murray County, State of Oklahoma, pursuant to 28 U.S.C.A. § 1446(d).

10. Plaintiff, on the face of his Petition filed in state court, demanded a jury trial prior to this removal. *See* Fed. R. Civ. P. 81(c)(3)(A).

WHEREFORE, Defendant removes this action to this Court pursuant to 28 U.S.C.A. §§ 1331, 1441 and 1446 and invokes this Court's jurisdiction.

Dated: February 25, 2022.

Respectfully submitted,

s/ William W. Speed
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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of February 2022, I served the above and foregoing Notice of Removal via United States mail, first-class postage pre-paid, on the following Attorneys for Plaintiff:

Mark E. Hammons
Amber L. Hurst
Brandon D. Roberts
Hammons, Hurst & Associates
325 Dean A. McGee Avenue
Oklahoma City, OK 73102

s/ William W. Speed